



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

SEPTEMBER 10, 2002

PRESENT: Acevedo, Benich, Engles, Escobar, Lyle, Mueller, Weston

ABSENT: None

LATE: None

STAFF: Planning Manager (PM) Rowe, Assistant Planner (AP) Plambaeck, Senior Engineer (SE) Creer, and Minutes Clerk Johnson

Chair Acevedo called the meeting to order at 7:00 p.m., and welcomed the students from Live Oak High school who were present.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Acevedo opened the public hearing.

With no one present wishing to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

**AUGUST 13,
2002**

**COMMISSIONERS MUELLER/ENGLES MOTIONED TO APPROVE THE
AUGUST 13, 2002 MINUTES, WITH THE FOLLOWING AMENDMENTS:**

-Page 9 paragraph 3: The item was tabled.

-Page 9 paragraph 8: following the comma, delete the remainder of the sentence and insert:
"and believes that allotments after the next two year competition will be substantially reduced, but not totally eliminated"

**THE MOTION PASSED 6-0-1-0 BY THE FOLLOWING VOTE: AYES: ACEVEDO,
ENGLES, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN:
BENICH; ABSENT: NONE.**

OLD BUSINESS:

- 1) UP-01-01:** A request for approval of a conditional use permit to allow for the construction of a 6,500 square foot building, arcade, restaurant and miniature golf course on 1.6 acres. The location is the W. side of Condit Rd., approximately 800 ft. S. of the E. Dunne Ave./ Condit Rd. intersection. The zoning for the site is Planned Unit Development (PUD).
- CONDIT-PATEL**

PM Rowe presented an abbreviated staff report in which he noted that the information needed for discussion and decision making by the Commissioners was not completed. Therefore, PM Rowe informed that the continuation of the matter would be the recommended action.

Chair Acevedo opened the public hearing.

With no one present indicating a disposition to speak, the public hearing was closed.

COMMISSIONERS ESCOBAR/MUELLER MOTIONED TO CONTINUE THE MATTER, PENDING RECEIPT OF THE INFORMATION REQUESTED, TO THE SEPTEMBER 24 MEETING. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF THE COMMISSIONERS PRESENT.

NEW BUSINESS:

- 2) SD-02-05/** A request for approval of a development agreement and a 12 lot subdivision for phase 1B of the 54 unit Quail Creek project located on a 15.7 acre parcel on north east corner of the intersection of Watsonville Rd. and Sunnyside Ave. The zoning on the property is R-1 7,000 Residential Planned Development.
- DA-02-04:**
- SUNNYSIDE-QUAIL CREEK DEVELOPMENT**

PM Rowe presented the staff report, noting that the mitigated Negative Declaration had been adopted in earlier zoning approval action. Continuing, he told Commissioners that on March 6, 2002, the City Council approved an RPD plan for the 15.7 acre Quail Creek project.

PM Rowe indicated that the Quail Creek project first received building allocations (12 allocations for FY 02-03, and 6 allocations for FY 2003-04,) in the 2000 MP competition. In May 14, 2002, the Commission awarded another 12 allocations for FY 2003-04. He went on to say that the developer has filed a final map for phase 1A, expecting to record that document in the first part of September.

PM Rowe also called attention to the Standard Agreement, page 7, items 1 - 6 , stating this item has been completed, and on page 9, item P (Storm Drain System) is envisioned to be completed in Phase 1B of the project and can be eliminated from this evening's discussion. He concluded by saying that on page 10 of the same document, item Q could be deleted as well.

"The development agreement, including the modification listed and under consideration at this meeting," PM Rowe said, "cements the commitments made during the MP process and the development schedule for the project".

Commissioner Benich expressed concern about the number of project names found within

the application, stating this causes confusion. PM Rowe said that it is often from the project having changed ownerships, but he reminded the file number does not change and continuity is assured in this manner.

Commissioner Weston questioned off-site improvements of curbs and gutters, indicating that the locations and extensions of those items appeared inconsistent. "For example," he continued, "why was the park not included in the project being presented?" SE Creer responded that conditions are actually attached to progression of the project. In this instance, the developer has asked, he said, to increase or accelerate some of the improvement schedule to ensure orderly development and installation of the improvements to complete the Sunnyside/Watsonville intersection. SE Creer continued that on page 8 of the Standard Agreement, a portion of item 4 had been deleted and that only those encroachment permits from the City of Morgan would be necessary for the developer to obtain.

Chair Acevedo opened the public hearing.

Scott Schilling, 16060 Caputo Dr., #160, addressed the Commissioners, asking to add a change to the Development agreement on page 8, dealing with the BMR housing. He pointed out that the minimum standards for hardware (ix) included narrowly defined (brass) finished for such apparatus as door knobs, and pledging to install quality fixtures to match those in other portions of the development. Commissioners agreed to the condition change to stipulate brass finish or equivalent.

Speaking to the matter of improvements, Mr. Schilling stated that he has planned to work on the Phases of the development in an economical and viable manner. He then explained the improvements planned on Sunnyside Ave., and pointed to the plan for completion of the project in two Phases.

Commissioner Weston raised the point of underground utilities. Mr. Schilling explained that the under grounding is limited to residential and/or commercial usage, not burying of high voltage wires.

With no others present indicating a wish to speak to the matter, the public hearing was closed.

Commissioner Lyle raised the point of the duplicity of the fixed area sidewalk and the meandering path in the application. Other Commissioners and the applicant joined in discussion with agreement reached to eliminate the duplication, and installing a meandering path built to City standards.

Commissioner Weston asked that an arborist be consulted regarding displacement of the large oak tree on lot 15. Mr. Schilling explained that the tree had already been evaluated and will be transplanted into the open space area of the project.

COMMISSIONERS LYLE/BENICH OFFERED RESOLUTION NO. 02-67, APPROVING A 12-LOT SUBDIVISION ON A 2.36 ACRE PORTION OF A 15.72-ACRE SITE, LOCATED ON THE NORTH EAST CORNER OF THE INTERSECTION OF SUNNYSIDE AVE. AND WATSONVILLE RD. WITH THE FOLLOWING MODIFICATIONS: STANDARD AGREEMENT, PAGE 7,

ELIMINATE ITEMS 1 - 6 , DUE TO PRIOR COMPLETION; DELETE THE STORM DRAIN SYSTEM, AS IT WILL BE PART OF PHASE 1B OF THE PROJECT; ITEM Q WAS ELIMINATED, AS IT WAS NOT APPLICABLE. ON PAGE 9, IDENTIFICATION OF PHASES 1 A AND 1 B OF THE PROJECT WAS INCLUDED. ALSO CHANGED WAS THE IDENTIFICATION OF THE ELIMINATION OF THE FIXED SIDEWALK, AND REQUIREMENT THAT THE AGREED-UPON MEANDERING PATH WILL BE BUILT TO CITY STANDARDS. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLS, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONERS LYLE/MUELLER OFFERED RESOLUTION NO. 02-68, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT APPLICATION DA-02-04 FOR APPLICATION MP-01-11: SUNNYSIDE-SOUTH VALLEY DEVELOPERS, WITH A MODIFICATION IN EXHIBIT "B", BY WHICH THE BUILDING PERMITS TO BE OBTAINED 3-31-04 AND CONSTRUCTION COMMENCED BY 6-30-04. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLS, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Commissioner Engles was excused for the next agenda item due to a potential conflict.

3) UP-02-06: A request for approval of a conditional use permit to allow offices for real estate firms, agencies, title companies, insurance/insurance brokerage companies and one private educational tutorial center in an existing three building complex of 63,312 sq. ft. The subject property is located on a 4.8 acre parcel at the corner of E. Main Ave. and Butterfield Blvd. in the Light Industrial zoning district.

E. MAIN-PUTERBAUGH

AP Plambaeck presented the staff report. In October 2001, the Community Development Department approved Site and Architectural plans for "The Ranch", a 63,312 sq. ft. development on the northwest corner of E. Main Avenue and Butterfield Blvd. The Ranch is a three building development with two buildings dedicated to research and development/light industrial uses and one building intended for administrative and executive office uses.

In July 2002, the owner of The Ranch applied for a conditional use permit to expand the allowable uses: general office and one private educational use. The proposed plans call for up to 31,764 sq. ft. of the site to be used for office uses and a minimum of 31,548 sq. ft. of the site for Research and Development/Light Industrial uses. The site has a total of 188 parking spaces.

In July 2002, the owner of the "Extreme Learning Center", a private educational tutorial center, applied for a temporary use permit to use 5,014 sq. ft. of space at The Ranch. After reviewing the application with other City and County departments, and with the applicant developing a safety plan with the Police Department for the tutorial center, the Community Development Department approved the temporary use permit in August of 2002. The temporary use permit is good for one year or until the conditional use permit is approved.

The applicant has requested the following uses be allowed at The Ranch: Office uses for real estate firms; mortgage brokerage companies; architecture and design firms; employment

agencies; title companies; insurance/insurance brokerage companies and one private educational facility. The applicant has agreed not to permit minor automobile repair at The Ranch. The office uses requested would be considered a general office use, requiring conditional approval. These uses would be facilitated by parking at a 1:300 ratio.

The private educational facility also requires a conditional use permit to operate. The Extreme Learning Center expects to have a total of 8 staff, with four staff members working with 30, K-12 students. The center hours will be from 9:00 a.m. to 9:00 p.m. Monday-Friday and Saturday 9:00 a.m. to 3:00 p.m. The Center expects to provide services to home school children during the middle of the day and provide services to students in local public and private schools after school.

AP Plambaeck outlined the findings required. Continuing, AP Plambaeck explained the Owner of The Extreme Learning Center, states that many of his clients will be coming to the center after-school, with most of the clients arriving after 3 p.m. Tutorial sessions will be two hours long. Much of the traffic generation during the p.m. peak hour (4 p.m. - 6 p.m.) will be clients leaving. Clients will be arriving and leaving via car pools, public transit, walking, and with those old enough to drive, by car.

AP Plambaeck outlined the chemical uses of a business currently within the project, and saying the proposed general office uses should have no conflict with existing and permitted uses in the existing site. However, he continued, the tutorial center is next to that business and shares a common wall.. The Santa Clara County Fire Department stated there should be no problem as long as any business meets the requirements of the code. The fire department also stated there is a potential for incompatibility if the codes are not met or if the occupancy in the buildings change permitting additional chemicals to be used.

AP Plambaeck said to ensure safety for the children, the Owner of the Extreme Learning Center, working in conjunction with the Police Department, created a safety plan for the tutorial center. The plan includes a pick-up and check in plan to ensure the safety of elementary school children. Loitering outside will be prohibited. Since the center will be sharing a restroom with the business next door, the center also developed a bathroom plan for the K-2 students. These students will be accompanied by a parent or other approved adult, or paired with a buddy to go to the bathroom during normal business hours. The Extreme Learning Center also has an emergency evacuation plan, AP Plambaeck commented.

Staff concluded that the proposed uses would not have a substantial adverse effect on the general welfare of persons residing in the community. AP Plambaeck informed that the proposed general office uses are compatible with the existing uses on-site and permitted uses in the Light Industrial zoning district. As long as any businesses adjacent to the tutorial center follows the fire and building code and do not change their occupancy to intensify their uses, there should be no adverse effect for the children in the tutorial center.

Chair Acevedo asked about the number of staff. AP Plambaeck said there were to be a total of 8, but with 4 actually working at any one time.

Commissioner Weston questioned signage for the project. AP Plambaeck said the sign permit has not been applied for at this time. A Uniform Sign Program has been approved for the project.

Chair Acevedo asked if office use should be confined to Building A and the amount of office use reduced accordingly? AP Plambaeck said Planning Department felt that it was not necessary; however, most of the office uses would likely locate in Building A.

Commissioner Lyle asked for clarification regarding a hazardous materials usage data sheet which had been provided. Chair Acevedo said he has talked with the inspector who explained the report to him.

Commissioner Weston stated that it did not appear that accessibility issues had been addressed on the drawings presented. He also discussed the sidewalk at the front of the property.

Chair Acevedo raised the issue of Prop 65/Safe Drinking Water and Toxic Enforcement Act required signage.

PM Rowe stated that those issues are primarily dealt with in the permitting process.

Commissioner Weston asked for an explanation of the exhaust and air filtration systems.

The public hearing was opened by Chair Acevedo.

Bill Puterbaugh, 183 Longmeadow Dr., Los Gatos, applicant and owner, presented drawings and addressed the concerns raised by Commissioners.

Commissioner Mueller spoke on the need for compatibility of occupants in the buildings.

Commissioner Lyle asked for comment by the owner on the feasibility of the shared bathrooms. Mr. Puterbaugh responded.

David Payne, 2768 Mina Bella Circle, owner of the Extreme Learning Center, said there were some conditions which alarmed him: the requirement of the fence on the property line by the railroad tracks, saying this sets an unnecessary precedence; and indicating that there would be a total of 40 students, not 30, on site for tutoring. He indicated that 20 of the students would be from local high schools.

Mr. Payne spoke at length of the traffic issues and his organization's proposed resolutions, including car pooling and having parents stay at the site for the two-hour sessions. He also said that the facility would enforce a 'no loiter' policy.

Commissioner Escobar asked about the policies for fingerprinting employees.

Having noted that Charter School students were figured into the enrollment mix, Commissioner Lyle asked about transportation for that group. Mr. Payne responded that he anticipates some students 6th grade and older will walk to the facility with strong encouragement of car-pooling by others.

The public hearing was closed as no others indicated a wish to address the matter.

Commissioner Benich asked how the increase from 30 to 40 students would affect parking?

AP Plambaeck replied that there appears to be plenty of parking based on the information presented regarding enrollment and attendance.

AP Plambaeck announced that an updated list of Other Conditions found on page 17 of the Standard Conditions had been provided to Commissioners. He stated that item 11 limits the number of students to 30; if the Commissioners agree with the applicant, they need to so designate.

Chair Acevedo revisited the issue of limiting general office use to building A. Mr. Puterbaugh said this presents no problem to him as long as the Learning Center stays where it is.

Commissioner Mueller stated a belief that the market will set demands for space, and that would be proper. He continued that the Planning Commission can set conditions which must be met.

Commissioner Lyle commented that if 40 students are permitted, traffic problems may increase.

COMMISSIONERS BENICH/MUELLER OFFERED RESOLUTION NO. 02-69, APPROVING A CONDITIONAL USE PERMIT TO ALLOW OFFICES FOR REAL ESTATE FIRMS, MORTGAGE BROKERAGE COMPANIES, ARCHITECT AND DESIGN FIRMS, EMPLOYMENT AGENCIES, TITLE COMPANIES, INSURANCE/INSURANCE BROKERAGE COMPANIES, AND ONE PRIVATE EDUCATIONAL TUTORIAL CENTER LOCATED AT THE NORTHWEST CORNER OF E. MAIN AVENUE AND BUTTERFIELD BOULEVARD ZONED LIGHT INDUSTRIAL.

The following conditions were included in the motion:

- The number of student may be increased to 40 (or a number meeting the Building Code regarding space requirements), with a review at the end of one year to ascertain continuance of the policy [this will modify #11 on page 17 of the Standard Conditions].
- Ride-sharing will be a sub-condition of the numbers being increased to 40 [this will further modify #11 on page 17 of the Standard Conditions].
- No loitering policy will be in place and strictly enforced [achieved by adding condition 13 under Other Conditions].
- Require fencing if the City of Morgan Hill adopts a safety plan for the railroad tracks, which requires the fencing. Fencing is to be in compliance with City-wide proposed policy [this will modify #6 on page 17 of the Standard Conditions]. The fencing is included in a City proposal to the PUC and are not currently a PUC requirement.
- Parents are to sign notification of disclosure of location (within the light industrial park designation) [this will be added to #14 of the Standard Conditions] Mr. Payne asked the Commissioners to ensure that businesses similar in nature to his have this same requirement.
- Applicant to acknowledge that there may be some limitations on who may lease space based on the Conditional Uses.
- Require disclosure of chemicals and other toxins in neighboring businesses.

THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO,

BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLS.

Commissioner Weston cautioned that there is need for precautions when businesses change within a determined zone.

Chair Acevedo stated - for the record - that he talked to the Haz Mat personnel and feels that the risks are minimal but should be noted.

Commissioner Engles rejoined the meeting for the next agenda item.

**4) UP-02-02:
COCHRANE-
IN-N-OUT
BURGER**

A request for approval of a conditional use permit to allow for the construction of a 3,243 sf drive-thru, fast food restaurant on a 1.02-acre site. The proposed use is located at the northwest quadrant of Cochrane Rd. And Hwy. 101.

PM Rowe announced that this item has been withdrawn by the applicant; consequently, no action was necessary by the Commissioners.

Chair Acevedo opened the public hearing as the item had been advertised for public hearing/comment.

With no one present indicating a wish to speak, the public hearing was closed.

ANNOUNCEMENTS:

PM Rowe discussed the upcoming Silicon Valley Projections 2002 Forum, which will be held September 20, 2002 in San Jose. Commissioners Lyle and Engles indicated intention to attend.

The Morgan Hill Policy Workshop, a roundtable discussion series of workshops for Boards, Commissions, City Staff, and the City Council members will be held September 21 (Saturday) beginning at 9:00 a.m. PM Rowe asked those Commissioners who plan to attend to contact him directly.

Regarding recent City Council actions, PM Rowe reported that on August 21, 2002, the Hale/Glenrock/Shea Home subdivision agreement had been approved, as had the Cochrane/Lupine annexation agreement. Also at that same meeting, the appeal of the application submitted by Jerry Jones was withdrawn. PM Rowe noted that Mr. Jones has apparently abandoned his opposition to completing the comprehensive application required by the Commissioners, signaling his intent to submit a new application with an area Master Plan which the Commissioners had requested months ago.

On September 4, 2002, the recommendation for approval of the application of In-and-Out Burgers sent to the Council by the Planning Commissioners was considered. PM Rowe informed that the Council did not accept that recommendation and had, by a 4 - 1 vote, denied the In-and-Out Burger request. Also at that meeting, there was approval of the matter of Coyote Estates, which had received favorable endorsement from the Planning Commission.

Chair Acevedo announced that on September 14 there will be an information booth at the Farmers Markets which will be stationed by members of the DownTown Task Force

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regarding recommendations of that body with respect to future downtown, Monterey Road and Depot Street improvements.

Commissioner Mueller asked when the anticipated adoption of the Housing Element could be reality? He noted that the City has submitted the Plan to the State, but a definitive

response has not been forthcoming. PM Rowe promised to speak with Director Bischoff regarding the matter.

Commissioner Mueller also queried a policy change in the Micro Measure P competition regarding a change from five (5) to six (6) units. He stated that clarification was needed on the matter. PM Rowe responded that in August during deliberations of Measure P, the City Council had adopted an ordinance raising the number of units from five to six.

ADJOURNMENT: There being no further business, Chair Acevedo adjourned the meeting at 9:05 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk